IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.5493 OF 2005

Poona Roller Flour Mill Ltd. .... Petitioner
Vs.
Balasaheb K. Gaikwad .... Respondent

Shri A.D. Patwardhan for the Petitioner.

Ms Usha Rahi i/b M/s. Mayur Narendra & Co.
for the Respondent.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: NOVEMBER 20, 2006

P.C:

Only grievance which is sought to be made against the impugned order relates to the direction for payment of back wages prior to the date of reinstatement of the respondent-employee. It is sought to be contended on behalf of the petitioner that the respondent, in spite of being told to join the services, did not join the services nor he tried to engage himself in gainful employment. Being so, according to the petitioner, he does not deserve to be directed to be paid with full back wages. The contention that the petitioner had asked the respondent-employee to join the services and yet he failed to join the services, is directly contrary to the materials on record. In the course of examination of the employee, it was admitted that the petitioner did not produce documentary evidence

to show that the name of the respondent-employee was mentioned in the muster roll in 1999. It was further suggested to the employee in the course of the cross-examination that his services were orally terminated by the petitioner. If it was the case of the petitioner itself that the services of the respondent were orally terminated, one fails to understand how the petitioner could have offered the respondent to join the services. It was on account of termination of the services itself that the respondent had to approach the Court. In the facts and circumstances of the case, therefore, there is absolutely no substance in the contention sought to be raised on behalf of the petitioner. The impugned order does not suffer from any jurisdictional error and it does not warrant interference in writ jurisdiction under Article 227 of the Constitution of India. The petition, therefore, fails and is rejected.

(R.M.S. Khandeparkar, J.)

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